

BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, D.C. 20268-0001

MAIL PROCESSING NETWORK RATIONALIZATION
SERVICE CHANGES, 2011

Docket No. N2012-1

**OPPOSITION OF THE UNITED STATES POSTAL SERVICE TO
AMERICAN POSTAL WORKERS UNION, AFL-CIO, MOTION TO COMPEL
RESPONSES TO APWU INTERROGATORIES APWU/USPS-21-22**

On March 29, 2012, The American Postal Workers Union, AFL-CIO (APWU) submitted the following interrogatories to the United States Postal Service:

APWU/USPS-21 In response to APWU/USPS-T1-34 Mr. Williams stated that “the Postal Service is currently evaluating new service areas and assessing any potential changes required for Express Mail and Priority Mail service standards.”

- a) Please provide the current performance data for Priority Mail and Express Mail.
- b) Once the evaluation referenced in Mr. Williams’ response is complete, please provide the list of changed 3-digit Zip Code pairs for Priority Mail and Express Mail.

APWU/USPS-22 Does the Postal Service measure the volume of “turnaround” Priority Mail?

- a) What is the current percentage of Priority Mail that currently receives overnight delivery?
- b) What percentage of Priority Mail that currently receives overnight delivery will shift to 2-day delivery in the new rationalized network?¹

On April 12, 2012, the Postal Service filed on objection to APWU/USPS-21(a), stating that the interrogatory sought information (1) not relevant to the service changes at issue in the docket; (2) commercially sensitive and proprietary in nature; and (3) previously provided, to the extent possible, in the course of discovery.² On April 12,

¹ Interrogatories of the American Postal Workers Union, AFL-CIO to United States Postal Service (APWU/USPS-21-22) (Mar. 29, 2012).

² Objection of the United States Postal Service to APWU/USPS-21(a) (Apr. 12, 2012) (“Objection”).

2012, the Postal Service also filed responses to the non-objectionable portions of APWU/USPS-21 and 22.³

On April 20, 2012, APWU filed a Motion to Compel the Postal Service to provide a response to APWU/USPS-21(a) and more responsive answers to APWU/USPS-21(b) and 22.⁴

Discussion

I. THE REQUESTED INFORMATION IS NOT RELEVANT.

APWU/USPS 21(a) seeks information that has no material relation to the Commission's task of advising whether the service changes proposed in this docket are consistent with the applicable policies of Title 39, U.S. Code. As explained in the Postal Service's objection to APWU/USPS 21(a), the current performance data for Express Mail and Priority Mail have no bearing on the market dominant service standards and plant consolidations at issue in this proceeding.

APWU asserts that the current proposal will have an impact on Priority and Express Mail, thereby demonstrating its relevance.⁵ The Postal Service maintains its objection on the grounds that the Postal Service is not required to report Express Mail or Priority Mail service performance. However, even if the Postal Service responded to APWU's request for "current performance data for Priority Mail and Express Mail," such information would not provide APWU with the impact on future performance of Priority

³ Responses of the United States Postal Service to American Postal Workers Union Interrogatories (APWU/USPS-21 and 22) (Apr. 12, 2012) ("Responses").

⁴ American Postal Workers Union, AFL-CIO Motion to Compel Responses to APWU Interrogatories APWU/USPS-21-22 (Apr. 20, 2012) ("Motion to Compel").

⁵ Id. at 2-3.

and Express Mail as APWU suggests.⁶ Further, the Motion to Compel does not proffer any arguments in support of APWU's assertion regarding the relevance of the specifically requested information, namely, current performance data.

To the extent that future performance data for these competitive products may be relevant to the current proceeding, the Postal Service stated in response to APWU/USPS 21(b) that it would provide the list of 3-digit ZIP Code pairs for Priority Mail and Express Mail once the necessary evaluations are complete.⁷ The Postal Service further explained, however, that even when the Postal Service completes realignment of ZIP Code pair service standards, the Postal Service will still be unable to predict the percentage of Priority Mail that will be delivered within its applicable service standard in the future.⁸

Finally, the Postal Service has previously provided information regarding "estimated total volume, revenue, cost and net contribution changes that would result if the service standard changes for First-Class Mail are implemented, as applied to FY2010 mail volume," for Priority Mail and Express Mail, among other products.⁹ This information has been available to APWU since December 5, 2011, the initial filing date of the Request.

II. THE REQUESTED INFORMATION IS COMMERCIALY SENSITIVE.

APWU asserts that the appropriate mechanism for preserving the "commercially sensitive, proprietary, and restricted" nature of the sought after information is to file it

⁶ *Id.* at 2 ("The current and future performance data for Priority and Express Mail is highly relevant to the Commission's review of the Postal Service's proposal in this docket.").

⁷ Responses at APWU/USPS-21(b).

⁸ *Id.* at APWU/USPS-22(b).

⁹ Direct Testimony of Greg Whiteman on Behalf of the United States Postal Service (T-12) at 22. See also Postal Service Library Reference USPS-LR-N2012-1/NP1.

under seal, pointing to previously filed non-public library references to support this position.¹⁰ These previously filed references are irrelevant as they do not contain performance data for competitive products. Instead, the non-public library references largely contain commercially sensitive information regarding First Class Mail and postal facilities, issues that are at the center of this proceeding.¹¹

III. APWU/USPS-21(A) HAS BEEN ASKED AND ANSWERED.

APWU asserts that the information requested in APWU/USPS-21(a) had not previously been requested in APWU/USPS-T1—34(a) and (b).¹² To the extent that the interrogatories are seeking information regarding the impact of the current proposal on future performance for Express Mail and Priority Mail, that information has been sought, and the Postal Service has provided the best response available, namely, that (1) the Postal Service is evaluating new service areas and assessing any potential changes required for Express Mail and Priority Mail service standards;¹³ and (2) even when the Postal Service completes this evaluation, it will be unable to predict the percentage of mail within each product that will be delivered within its applicable service standard in the future.¹⁴

¹⁰ Motion to Compel at 3-4.

¹¹ Should the Postal Service be ordered to produce the current performance data for Priority Mail and Express Mail, however, it would certainly apply to do so under seal.

¹² *Id.* at 4-6.

¹³ Responses of United States Postal Service Witness Williams to American Postal Workers Union Interrogatories (APWU/USPS-t1—31 through 34(a-c) and 35) (Mar. 15, 2012) at APWU/USPS-T1—34(a).

¹⁴ *Id.* at APWU/USPS-T1—34(b); Responses at APWU/USPS-22(b).

IV. THE PROVIDED RESPONSES ARE SUFFICIENT.

APWU asserts that the information provided by the Postal Service in response to APWU/USPS-21(b) and 22 is insufficient.¹⁵ With respect to APWU/USPS-21(b), APWU asserts that there is an inconsistency between the response to APWU/USPS-21(b) and earlier interrogatories.¹⁶ The responses, however, are consistent. As APWU explained, in response to an interrogatory regarding the impact that the proposed plan would have on the actual delivery profile for Priority Mail, the Postal Service stated that “[t]he impact would depend on the results of the individual AMP studies.”¹⁷ It consistently follows that once the facility-specific consolidation determinations were made, the Postal Service began evaluating new service areas and assessing any potential changes required for Express Mail and Priority Mail service standards, as Witness Williams explained.¹⁸ It also consistently follows that such an evaluation regarding Express Mail and Priority Mail service standards will depend on the final network changes.¹⁹

Second, APWU asserts that “the Postal Service cannot legitimately claim the benefits of network consolidation when it has not evaluated its impact on its entire business.”²⁰ This assertion is flawed. As evidenced by the testimony cited above,

¹⁵ Motion to Compel at 6-8.

¹⁶ *Id.* at 6.

¹⁷ Responses of United States Postal Service Witness Neri to American Postal Workers Union, AFL-CIO Interrogatories (APWU/USPS-T4—2(a)-(h), 3-6, and 7(a)-(c)) (Jan. 12, 2012), at APWU/USPS-T4—3.

¹⁸ Responses of United States Postal Service Witness Williams to American Postal Workers Union Interrogatories (APWU/USPS-T1—31 through 34(a-c) and 35) (Mar. 15, 2012) at APWU/USPS-T1—34(a).

¹⁹ Responses at APWU/USPS-21(b).

²⁰ Motion to Compel at 6.

through market research, the Postal Service has considered the impact that the proposal would have on Priority and Express Mail revenue, costs, and volume.²¹

Further, as recognized by the Commission in N2006-1, the overall effects of a specific change in the nature of postal services “cannot be known in advance” and it is therefore “appropriate to appraise the Service’s stated goals in light of the Postal Reorganization Act’s policy declarations, and to assess the apparent soundness of all the methods it intends to use in achieving those goals.”²² Just as in that case, it is appropriate to appraise the Postal Service’s stated goals, while also acknowledging that the overall effects cannot be known in advance.

With respect to APWU/USPS-22, APWU asserts that the responses are again insufficient.²³ APWU/USPS-22(a) requests the current percentage of Priority Mail that currently receives overnight delivery. The Postal Service responded by providing the percentage of 3-digit ZIP Code pairs with an overnight Priority Mail service standard.²⁴ If APWU was in fact seeking the current performance data for Priority Mail, which is unclear from the form of the interrogatory, the Postal Service objects on the same grounds expressed in response to APWU/USPS-21(a). Further, APWU/USPS-22(b) essentially asks what percentage of Priority Mail identified in response to APWU/USPS-22(a) will shift to 2-day delivery in the new network. The Postal Service provided the best available response, namely, that it cannot predict such changes.²⁵

²¹ Direct Testimony of Greg Whiteman on Behalf of the United States Postal Service (T-12) at 22. See also Postal Service Library Reference USPS-LR-N2012-1/NP1.

²² Advisory Opinion Concerning a Proposed Change in the Nature of Postal Services (Dec. 19, 2006) at 13.

²³ Motion to Compel at 7-8.

²⁴ Responses at APWU/USPS-22(a).

²⁵ Responses at APWU/USPS-22(b).

Conclusion

The APWU interrogatories are based on APWU's assertion that the impact of the current proposal on Priority and Express Mail should be important to the Commission's consideration of the proposal. Regardless of whether the Postal Service agrees with this assertion, the Postal Service has consistently stated that it is, and will continue to be, unable to predict the actual percentage of Priority Mail and Express Mail that will be delivered within the applicable service standard in the future. Further, the Postal Service included with its initial request the best available information regarding the impact of the current proposal on Priority and Express Mail, namely the market research showing the potential impact on revenue. As such, providing performance data for these products is both irrelevant and unnecessary.

Accordingly, the Motion to Compel should be denied.

Respectfully submitted,

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April 27, 2012